

REMARKS/ARGUMENTS

Claims 3, 4, 7, and 8 have been canceled and the remaining claims have been amended to limit them to osmolyte selected from ectoine, hydroxyectoine or a pharmacologically compatible salt thereof. Applicant reserves the right to file a divisional application directed to the eliminated osmolytes, and in particular firoin and firoin-A.

Applicant notes the objection to the oath/declaration, but respectfully applicant cannot be certain as to what specifically is being referred to. If the Examiner would be kind enough to be more specific, applicant will take appropriate steps.

The objection to the specification has been noted, but respectfully, the reference to the URL in the published copy of the specification does not appear to have an embedded hyperlink, i.e., when one attempts to double click on it, nothing happens. Therefore it is believed that there is no need to modify reference to the URL.

The objections to claims 9 and 10 have been obviated by the amendment.

The rejection under 35 USC § 112 – 1st paragraph is believed overcome by the amendment.

The rejection under 35 USC § 112 – 2nd paragraph is believed overcome by the amendment.

The rejection under 35 USC § 101 is believed overcome by the amendment.

The rejection of claim 6 – 8 (now only claim 6) under 35 USC § 102(a) over the '819 patent in view of the '021 and '871 published patent applications is respectfully traversed. The new claims are limited to the use of ectoine, hydroxyectoine and pharmacologically compatible salts thereof. The ectoines are the most effective agents that have an activity in reducing the adverse effects of suspended particulate materials damaging lung tissue and is frequently related to cardiovascular diseases.

U.S. '819 relates to xylitol, an osmolyte, as an agent useful in the treatment of lung infections in CF patients. Xylitol is used to lower the ionic strength in fluids, which makes

treatment of infectious microbial cells by endogenous antimicrobials more effective. Thus, xylitol is used as a common adjuvant which allows endogenous antimicrobials to become active; there is no activity of the xylitol itself besides the ionic strength lowering effect. It is entirely open whether the ectoines have an ionic strength lowering effect. Xylitol is a non-ionic compound, whereas the ectoines are amphoteric. Moreover, the ectoines are amino acids in an entirely different chemical class, when compared to xylitol and sugars. It is highly unlikely that xylitol and ectoines have a comparable activity. Thus, the ectoines are not a natural substitute for xylitol.

U.S. '021 refers to xylitol and ectoine as water content increasing compounds. see section [0099]. The water balance adjusting effect of osmolytes is of no relevance in the present context. U.S. '817 refers to cosmetics containing xylitol or ectoine as moisturizers. The present use has nothing to do with cosmetics. As is pointed out above, the water content increasing effect of ectoines is of no importance here.

Since the cited prior art does not disclose any suitability of xylitol in combating the damaging effects of suspended particulate, the references can not teach the use of ectoines for that specific purpose. The fact that both xylitol and ectoines belong to the group of osmolytes, does not render the use of ectoines in connection with suspended particulate obvious.

In view of the foregoing applicant believes the claims should be allowed and the Notice of Allowance is solicited.

The Commissioner is hereby authorized to charge payment of any fees required associated with this communication or credit any overpayment to Deposit Account No. 50-3881. If an extension of time is required, please consider this a petition therefor and charge any additional fees which may be required to Deposit Account No. 50-3881. A duplicate copy of this paper is enclosed

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Respectfully submitted,

By 

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